

**REMARKS**

Claims 1-34 remain in the present application. Claim 1 has been amended and claims 11-34 were previously withdrawn. Support for the change to claim 1 can be found throughout the specification. The Applicant respectfully request reconsideration of the application.

**Response to Arguments**

In the phone interview held October 10, 2008, it was determined that the Memorex reference is not prior art since the cited reference is dated March 24, 2006 while the filing date of the present application is February 19, 2004. However, in the Office Action dated November 25, 2008, the Office has asserted that “[t]he content of Memorex reference is prior art ... The passages explain what is usually meant by ‘pre-pit.’ The use of pre-pit in such fashion (of Memorex reference) is a defining feature of DVD itself (which differs from CD in this way.)” Applicants respectfully disagree.

Exception to the rule that the cited reference date must precede the filing date requires that the fact shown in the reference is evidence that the characteristics of prior art products were known. MPEP § 2124. As such, the legal standard requires that the pre-pit in the fashion of the Memorex reference be present in DVD products that were manufactured prior to the filing date of the present application. Applicants respectfully request the Office to provide evidence for existence of such DVD products to support the Office’s assertion that the Memorex reference is a valid prior art reference.

**Conditionally Allowable Subject Matter**

Applicants gratefully acknowledge the indication by the Office that the subject matter of claims 1-10 is not found in the prior art and that the actual allowance would depend upon the results of further searching the art and analyzing by the Office.

**Cited Prior Art**

Abstracts of some of the references cited in Office Actions from foreign patent office and listed in the IDS filed on August 29, 2008 have been provided in the IDS.

The Applicant notes that the Examiner has requested assistance in determining the applicability of foreign Office Actions submitted in Information Disclosure Statements. The Applicant believes that all requirements have been fulfilled by providing English abstracts of the foreign references cited in the foreign Office Actions and no further translation is necessary. If the Examiner would like to discuss what specifically is requested from the Applicant, the Examiner is requested to contact the Applicant's representative at the telephone number listed below.

**Rejections Under 35 U.S.C. §101**

Claims 1-10 are rejected under 35 U.S.C. 101 as being directed to non-statutory subject matter.

Claim 1 has been amended to claim structural and functional interrelationships between a data structure (i.e., the copy protection-related information, CPI, and the identification information) and an apparatus which permit the functionality of the data structure to be realized, thereby, overcoming the Office's assertion that claim 1 recites only non-functional descriptive material. For instance, as recited in claim 1, the CPI and the identification information are used by the apparatus for reproducing the data stored in the computer readable recording medium so that the apparatus can

determine whether or not the data is copied on the computer readable recording medium through a legal process. Furthermore, a computer readable recording medium recited in claim 1, which is encoded with the CPI and the identification information, is a computer element which defines a functional relationship between the encoded information and the rest of the computer which permit the encoded information's functionality to be realized, and is thus statutory. MPEP § 2106.01. As such, withdrawal of the rejection of claim 1 and its dependent claims 2-10 is respectfully requested.

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**CONCLUSION**

Accordingly, in view of the above amendments and remarks, reconsideration of the objections and rejections and allowance of each of claims 1-10 in connection with the present application is earnestly solicited.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact the undersigned at the telephone number listed below.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 08-0750 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. §1.17; particularly, extension of time fees.

Respectfully submitted,

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